

CCRB INVESTIGATIVE RECOMMENDATION

Investigator Assigned: Glenn Brown	Team: Team # 1	CCRB Case # : 201406980	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> Discourtesy <input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Date/Time of Incident: Wed, 07/02/2014 02:00 AM	Location of Incident: East 174th Street and Boone Avenue	Pct. of Occurrence: 42	Date S.O.L. Expires: 01/02/2016		
Date/Time C/V Reported: Wed, 07/02/2014 08:43 AM	C/V Reported At: IAB	How C/V Reported: Phone	Date/Time Received at CCRB: Fri, 07/11/2014 04:13 PM		

Complainant/Victim	Type	Home Address
1. James Hurt, Sr.	Complainant	Unknown
2. James Hurt, Jr.	Victim	990 Aldus Street Apt. 5F, Bronx, NY, 10459

Witness(es)	Home Address
1. Jacqueline Marquez	990 Aldus Street Apt. 5F, Bronx, NY, 10459

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. Officers			

Witness Officer(s)	Shield	TaxID	Command
1. POM Gary Martin	17799	900476	044 PCT
2. SGT Michael Connizzo	01391	932485	PBBX SU
3. POM Frank Siciliano	05028	939464	PBBX SU

Officer(s)	Allegation	Recommendation
A. Officers	Abuse of Authority: Officers stopped the car in which James Hurt, Jr. was an occupant.	A. Officer(s) Unidentified
B. An officer	Abuse of Authority: An officer frisked James Hurt, Jr.	B. Officer(s) Unidentified
C. An officer	Abuse of Authority: An officer searched James Hurt, Jr.	C. Officer(s) Unidentified
D. An officer	Abuse of Authority: An officer searched the car in which James Hurt, Jr. was an occupant.	D. Officer(s) Unidentified
E. An officer	Abuse of Authority: An officer searched James Hurt, Jr.'s bag.	E. Officer(s) Unidentified
F. Officers	Force: Officers used physical force against James Hurt, Jr.	F. Officer(s) Unidentified
G. An officer	Force: An officer struck James Hurt, Jr. with a vehicle.	G. Officer(s) Unidentified

Case Summary

On July 2, 2014, at approximately 2:00 am, James Hurt, Jr. was riding in a livery cab on East 174th Street in the vicinity of Boone Avenue in the Bronx when the cab was allegedly pulled over by a light-colored unmarked police vehicle (**Allegation A**). Two unidentified plainclothes white males exited the vehicle and instructed Mr. Hurt, Jr. to get out of the cab. Mr. Hurt, Jr. complied and one of the officers allegedly frisked Mr. Hurt, Jr.'s waist and torso (**Allegation B**) and then allegedly placed his hands into Mr. Hurt, Jr.'s pants pockets (**Allegation C**). Simultaneous to this alleged frisk and search, the other officer entered the backseat of the cab (**Allegation D**) and searched through Mr. Hurt, Jr.'s duffel bag (**Allegation E**). One of the officers then forced Mr. Hurt, Jr. face-down onto the hood of the police vehicle and the other officer pulled Mr. Hurt, Jr.'s left arm behind his back with enough force that his shoulder dislocated (**Allegation F**). The officer that had not dislocated Mr. Hurt, Jr.'s shoulder allegedly punched him three times in the mouth and Mr. Hurt, Jr. ran away from the officers (**Allegation F**). Both officers got back into their vehicle and pursued Mr. Hurt, Jr. The officer who was driving allegedly swerved the vehicle several times towards Mr. Hurt, Jr. and eventually hit him once in his left leg, forcing him into a chain-link fence (**Allegation G**). Mr. Hurt, Jr. climbed up and over this fence and hid in an alleyway until morning, at which time his mother Jacqueline Marquez and his father James Hurt, Sr. picked him up and drove him to the hospital, where he received treatment for a dislocated shoulder and several lacerations to his hand, arm, torso, and thigh. Mr. Hurt, Jr. was not arrested or issued a summons as a result of the incident (complaint encl. B4-5, CCRB statement encl. B6-13).

Mediation, Notice of Claim, and Criminal Histories

This complaint was ineligible for mediation. On March 2, 2015, a Notice of Claim inquiry was filed with the Comptroller's Office and this request is still pending. As of March 17, 2015, Mr. Hurt, Jr. does not have any criminal convictions.

Civilian and Officer CCRB Histories

This is the first complaint filed by James Hurt, Sr. and the first complaint made on James Hurt, Jr.'s behalf (encl. A1-2).

NYPD Documents**Event Summary from 41st Precinct and 43rd Precinct:**

On July 1, 2014 at 10:00 pm to July 2, 2014 at 6:00 am, there were no related Events generated in the vicinity of East 174th Street and Boone Avenue (encl. D4-9).

MISD Check and NYS Trooper Check:

On July 2, 2014, at 9:41 am and at 12:18 pm, warrant checks were run on James Hurt, Jr. by PO Gary Martin of the 44th Precinct (encl. D10-26, H9).

42nd Precinct Documents:

- On July 2, 2014, the Stop, Question, and Frisk Log from the 42nd Precinct recorded two unrelated stops (encl. E5-6).
- The Fleet Services Request noted that there were four light-colored vehicles operating in the 42nd Precinct: a silver Chevrolet Impala, RMP #19609 ("Reserve Fleet"), a gray Chevrolet Impala, RMP #60608, a gray Chevrolet Impala, RMP #94306 ("Reserve Fleet"), and a gray Ford Fusion, RMP #61811 (encl. D27).
- The Daily Vehicle Assignment Sheet from the 42nd Precinct for Tour 3 on July 1, 2014 and for Tour 1 on July 2, 2014 noted that RMP #606 was in the shop and RMP #618 was assigned

to the stationhouse; the “Reserve Fleet” vehicles’ assignments were not noted (encl. E16, E20).

- On July 1, 2014, the Tour 3 Roll Call noted that the 42nd Anti-Crime officers were assigned to work from 6:00 pm to 2:35 am, PO Wilson Colon (a Hispanic male), PO Kely Tiburcio (a Hispanic male), PO Mauricio Thomas (a Hispanic male), and PO Alverny Tavarez (a Hispanic male); the Anti-Crime Supervisor, Sgt. Cesar Impert (a Hispanic male) was scheduled to work until 12:00 am (encl. E7-15).
- On July 2, 2014, the Tour 1 Roll Call noted that there were no officers assigned to Anti-Crime (encl. E17-19).

43rd Precinct Documents:

- On July 2, 2014, the Stop, Question, and Frisk Log for the 43rd Precinct logged only one unrelated stop (encl. E21).
- The Fleet Services Request noted that only one light-colored vehicle was operating in the 43rd Precinct, a gray Ford Fusion, RMP# 141010 (encl. D28).
- The Daily Vehicle Assignment Sheets from the 43rd Precinct for Tour 3 on July 1, 2014 noted that all of the unmarked vehicles were assigned to the stationhouse and for Tour 1 on July 2, 2014, none of the unmarked vehicles were assigned (encl. E33, E41).
- On July 1, 2014, the Tour 3 Roll Call noted that the 43rd Precinct Anti-Crime officers were assigned to work from 5:50 pm to 2:30 am. The Roll Call did not specify the vehicles to which they were assigned, but they were Sgt. Omar Perez (a Hispanic male), PO Thomas Trainor (a white male), and PO Edwin Espinal (a Hispanic male) (encl. E22-32).
- On July 2, 2014, the Tour 1 Roll Call noted that there were no officers assigned to Anti-Crime (encl. E34-40).

PSA 7 Documents:

- The Fleet Services Request noted that only one light-colored vehicle was operating in PSA 7, a gray Chevrolet Impala, RMP #60108 (encl. D29).
- On July 1, 2014, the Tour 3 Roll Call noted that the Anti-Crime officers worked from 5:26 pm to 2:10 am and they were all assigned to the Mott Haven and Mitchell Houses. Sgt. Miguel Frias (a Hispanic male) and PO Braulio Aponte (a Hispanic male) were in RMP #9605 and PO Jason Merchan (a Hispanic male) and PO Elvis Duran (a Hispanic male) were in RMP #9233. No units were assigned to RMP #601. The Mitchell and Mott Haven Houses are both located in the 40th Precinct (encl. E42-47).
- On July 2, 2014, the Tour 1 Roll Call noted that there were no officers assigned to Anti-Crime. No units were assigned to RMP #601 (encl. E48-54).

PSA 8 Documents:

- On July 2, 2014, the Stop, Question, and Frisk Log from PSA 8 recorded two unrelated stops (encl. E55-56).
- The Fleet Services Request noted that there were two light-colored vehicles operating in PSA 8, a gray Ford Taurus, RMP #41410 and a gray Ford Escape, RMP #14811 (an SUV) (encl. D30).
- On July 1, 2014, the Tour 3 Roll Call noted that there were no officers assigned to Anti-Crime. No units were assigned to RMP #414 (encl. E57-69).
- On July 2, 2014, the Tour 1 Roll Call noted that there were no officers assigned to Anti-Crime. No units were assigned to RMP #414 (encl. E70-76).

Patrol Borough Bronx Anti-Crime:

- The Fleet Services Request noted that there was one light-colored vehicle being operated by Bronx Anti-Crime: a silver Chevrolet Impala, RMP #1075 (encl. D31).
- From July 1 to July 2, 2014, Bronx Anti-Crime officers were assigned to work from 7:30 pm on July 1 to sometime after 4:00 am on July 2. Sgt. Connizzo and PO Siciliano, both white males, were assigned to RMP #1075. Of the 15 total Bronx Anti-Crime officers working on the night of the incident, all but two are white males (encl. E1-4).

Narcotics Borough Bronx, 41st and 42nd Precinct Module Documents:

- On July 1, 2014, only one officer ended his tour after midnight, Sgt. Aaron Edwards (a black male), but according to the Movement Log, he had returned to the command at 8:30 pm and did not go out again (E77-80).
- On July 2, 2014, no officers started his tour before 6:27 am (encl. E81-85).

Bronx Gang Squad Documents:

- On July 2, 2014, the first officer in Bronx Gang to appear for duty was present at 4:03 am (encl. E87-99).

IAB Case File:

On August 15, 2014, the Internal Affairs Bureau closed its investigation into the incident without identifying the subject officers involved (encl. F1-31).

Findings and Recommendations

Explanation of Subject Officer Identification

Mr. Hurt, Jr. stated that the two officers who stopped the cab in the vicinity of East 174th Street and Boone Avenue in the Bronx (which is on the border of the 42nd and 43rd Precincts) were two plainclothes white males and that they had pulled the cab over in an unmarked light-colored sedan. Mr. Hurt, Jr. described one of the officers as 6'0" tall, over 200 pounds, with a salt-and-pepper beard and wearing a gold shield, and the other officer was 5'10" tall and 190 pounds.

The Event Summaries (encl. D4-9, G2-3) and the Stop, Question, and Frisk Logs from the 42nd and 43rd Precincts (encl. E5-6, E21, G2-3) did not have any record of the stop. The Anti-Crime teams from the 42nd and 43rd Precincts (a total of seven officers) both ended their tours at 2:30 am, though only one of those officers was a white male and he was working with two Hispanic officers (encl. E5-41, G2-3). There are also NYCHA buildings policed by PSA 7 and PSA 8 in the vicinity of the stop, though PSA 8 did not have any officers assigned to Anti-Crime at the time of the incident (encl. E56-76, G2-3). PSA 7 had an Anti-Crime team that ended its tour at 2:10 am, but those four officers were all Hispanic males and they were assigned to buildings located in the 40th Precinct (encl. E42-53, G2-3).

Patrol Borough Bronx Anti-Crime had 15 officers assigned to work until 4:00 am on the night of the incident and even had a silver colored unmarked sedan that was operational at the time (encl. D31, E1-4, G2-3). Sgt. Michael Connizzo (a white male) and PO Frank Siciliano were assigned to that vehicle, but at the time of their interviews, it was determined that they finished their tours at 12:00 am because they had court the next morning (encl. C1-9). Of the remaining 13 Borough Anti-Crime officers, 11 were white males.

Bronx Narcotics did not have any white male officers who worked after midnight (encl. E77-85, G2-3) and the members of the Bronx Gang Squad who reported earliest to duty on July 2 did not start work until 4:00 am (encl. E86-99, G2-3).

An MISD search and a NYS Trooper Search revealed that a warrant check was done by PO Gary Martin of the 44th Precinct at 9:41 am and 12:18 pm on July 2 (encl. D10-26, G2-3), but at the time of his interview at the CCRB, PO Martin stated that he was working a stationhouse assignment that morning and did not know who performed this warrant check or why (encl. C10-22). IAB also investigated the incident and closed the case without successfully identifying the subject officers (encl. F1-31).

Because the investigation determined that Sgt. Connizzo and PO Siciliano were not working at the time of the incident, at least 11 Borough Anti-Crime officers remain as possible subjects, but without an Event, a Stop, Question, and Frisk Report, a positive hit from MISD or the NYS Troopers at the time of the incident, or an identification from IAB's investigation, the investigation could not determine the identity of the subject officers. Therefore, Allegations A through G have been pled against "An officer," and "Officers," from an unknown command.

- **Allegation A) Abuse of Authority: Officers stopped the car in which James Hurt, Jr. was an occupant.**
- **Allegation B) Abuse of Authority: An officer frisked James Hurt, Jr.**
- **Allegation C) Abuse of Authority: An officer searched James Hurt, Jr.**
- **Allegation D) Abuse of Authority: An officer searched the car in which James Hurt, Jr. was an occupant.**
- **Allegation E) Abuse of Authority: An officer searched James Hurt, Jr.'s bag.**
- **Allegation F) Force: Officers used physical force against James Hurt, Jr.**
- **Allegation G) Force: An officer struck James Hurt, Jr. with a vehicle.**

Mr. Hurt, Jr. alleged that he was stopped by two plainclothes officers in an unmarked light-colored vehicle while he was riding in the back of a livery cab. One of the officers frisked and searched him outside of the vehicle while the other officer went into the backseat of the cab and searched through his duffel bag. Mr. Hurt, Jr. was then forced face-first down onto the hood of the police vehicle and an officer pulled his arm behind his back with such force that he dislocated his shoulder. The other officer punched Mr. Hurt, Jr. in the face three times and Mr. Hurt, Jr. ran away. The officers pursued him in their vehicle and the driver swerved onto the sidewalk, striking Mr. Hurt, Jr. in the leg. Mr. Hurt, Jr. climbed over a fence and succeeded in eluding the officers. Mr. Hurt, Jr. sustained lacerations to his torso, left arm, and left thigh (encl. B6-13). Mr. Hurt, Jr.'s hospital records confirm that he sustained the injuries he alleged and that two of his lacerations required sutures (encl. G1).

For the reasons discussed above, the investigation could not determine the identity of the subject officers involved. Therefore, it is recommended that Allegations A through G be closed as **officers unidentified**.

Team: 1

Investigator:	<u>Glenn Brown</u>	<u>GLENN BROWN</u>	<u>3/26/15</u>
	Signature	Print	Date
Supervisor:	<u>Sgt. J. Innes</u>	<u>Jennifer J. Innes</u>	<u>3-25-15</u>
	Title/Signature	Print	Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date